

## **DECISION MEMORANDUM**

**TO: COMMISSIONER KEMPTON  
COMMISSIONER SMITH  
COMMISSIONER REDFORD  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL**

**FROM: SCOTT WOODBURY  
DEPUTY ATTORNEY GENERAL**

**DATE: DECEMBER 9, 2009**

**SUBJECT: CASE NO. PAC-E-09-09 (PacifiCorp)  
POWER PURCHASE AGREEMENT – BELL MOUNTAIN HYDRO, LLC**

On December 4, 2009, PacifiCorp dba Rocky Mountain Power (PacifiCorp; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Power Purchase Agreement between PacifiCorp and Bell Mountain Hydro, LLC (Bell Mountain) dated November 17, 2009 (Agreement).

Bell Mountain intends to construct, own, operate and maintain a Pelton-wheel hydroelectric generating facility (Facility) for the generation of electric power located approximately 40 miles north of Howe, Idaho, in Butte and Lemhi Counties at a location more particularly described as: SW 1/4 of the SW 1/4, Section 7, Township 10N, Range 27E, Boise Meridian. Bell Mountain warrants that the Facility will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). Agreement ¶ 3.2.6.

The facility is described as the following:

Two creeks, Bell Mountain Creek and Mahogany Creek, feed into a two-mile canal, which Seller has recently lined, and 16,000 feet of new steel pipe. Seller has also installed a new Pelton-wheel and a new 290 kW generator. The water is used both for irrigation and power production. Water flow is year-round and irrigation season is from April to October. Seller has a non-consumptive water right to generate power. Seller has the ability to store approximately 10 acre-feet of water in the canal (the “Pond”), which is equivalent to about seven hours of generation at the Facility Capacity Rating.

Seller has no right to directly or indirectly regulate the flow of water to the Facility except the cycling, or storing, of approximately 10 acre-feet of water in the canal immediately upstream of the Facility’s generating structure.

Agreement, Exh. A.

The submitted Agreement, as reflected in the Application, is the result of negotiation and compromise. PacifiCorp will pay Bell Mountain non-levelized conforming energy or non-conforming energy purchase prices for net output adjusted for the month and on-peak/off-peak hours in accordance with Commission Order Nos. 30423 (monthly and daily price multipliers), 30480 (SAR methodology – fuel cost component), and 30744 (Conforming Energy Annual Rates). The parties recognizing the intermittent nature of the resource have also agreed to include a mechanical availability guarantee (MAG) and a \$5.10/MWh wind integration cost adjustment. Agreement ¶ 5.1. In addition, the Agreement contains provisions for delay liquidated damages (¶ 2.3) to secure the established scheduled commercial operation date of December 15, 2009.

The nameplate rating of the Facility is 290 kW. Agreement, Exh. A. The estimated annual generation is 1,102,530 kWh. Agreement, Exh. D. Under normal and/or average conditions, the Facility will not exceed 10 aMW on a monthly basis. Should the Facility exceed 10 aMW on a monthly basis, PacifiCorp may except inadvertent energy at its sole discretion, but will not purchase or pay for inadvertent energy. Agreement ¶ 5.3.

The Scheduled Commercial Operation Date of the Facility is December 15, 2009. Agreement ¶ 2.2.4. Agreement ¶ 2.1 provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declares that all payments PacifiCorp makes to Bell Mountain are just and reasonable and legitimate expenses, all of which the Commission will allow PacifiCorp to recover in rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.

### **COMMISSION DECISION**

Commission Staff recommends that PacifiCorp's Application in Case No. PAC-E-09-09 (Power Purchase Agreement – PacifiCorp/Bell Mountain Hydro) be processed pursuant to Modified Procedure, i.e., by written submission rather than hearing. Reference IDAPA 31.01.01.201-204. Does the Commission agree with the recommended procedure?



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Scott Woodbury  
Deputy Attorney General